

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

California ISP Association, Inc.,

Complainant,

v.

Pacific Bell Telephone Company (U-1001-C); SBC
Advanced Solutions, Inc. (U-6346-C) and
Does 1-20,

Defendants.

Case 01-07-027
(Filed July 26, 2001)

**ADMINISTRATIVE LAW JUDGE'S RULING
REQUIRING THAT PARTIES MEET AND CONFER
AND SCHEDULING PREHEARING CONFERENCE**

1. Background

On July 26, 2001, the California ISP Association (CISPA) filed a complaint against Pacific Bell Telephone Company (Pacific) and SBC Advanced Solutions Inc. (ASI) (jointly Defendants). The complaint alleges unlawful discrimination by Pacific and ASI in the provision of digital subscriber line (DSL) transport services in California. CISPA alleges that this conduct violates the Public Utility Code and Commission orders.

On October 22, 2001, Defendants each filed an answer to the complaint. On the same date, Defendants jointly filed a Motion to Dismiss the complaint. The motion alleges that the Commission does not have jurisdiction over the DSL

Transport service at the heart of the complaint, and that the complaint is moot given ASI's filing of an interstate tariff with the FCC for DSL Transport Service in California.

2. Prehearing Conference

The motion to dismiss should be considered first as a threshold matter before proceeding any further in this case. Nevertheless, because this is an adjudicatory proceeding and several months have elapsed at the parties' request as they attempted to settle the matter, I will schedule a prehearing conference (PHC) to discuss both the motion to dismiss and a schedule and scope for the case in the event the motion to dismiss is denied. A PHC is set for November 15, 2001, at 2:00 p.m. The PHC will be held in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California.

Pursuant to Rule 49, I direct the parties to meet and confer to determine whether the issues in the case can be narrowed or amended in the event the motion to dismiss is denied. Parties should also prepare a proposed schedule for the case that is agreeable to all parties. Consistent with Rule 49, parties should report on the results of their meet and confer session in PHC statements that each party shall file and serve no later than 5:00 p.m. on Friday, November 9, 2001. Pacific and ASI may file their statement jointly as Defendants. The PHC statements should address the following:

- The results of the meet and confer session including the status of settlement discussions or other agreements to narrow or amend the issues in this case. Defendants claim several of CISPA's allegations are now moot given ASI's filing of an FCC for the services at issue. The PHC statements should address this and whether it reduces the scope of issues;
- The issues that each party intends to ask the Commission to decide;

- Whether a hearing is necessary;
- A preliminary list of witnesses that the party intends to call, with a brief description of the subject matter of each witness' testimony;
- A proposed hearing date;
- Proposed dates for the service of any prepared written testimony and reply testimony; and
- The anticipated number of hearing days.

The PHC statements should be filed and served in paper form, as described in Rule 2, et seq. In addition, the parties shall provide the assigned Administrative Law Judge and the office of the assigned Commissioner with a copy of their PHC statements by e-mail addressed to dot@cpuc.ca.gov and tjl@cpuc.ca.gov no later than 5:00 p.m., on November 9, 2001.

IT IS RULED that:

1. A prehearing conference (PHC) is set for November 15, at 2:00 p.m., as set forth in this ruling.
2. Parties shall file and serve PHC statements as set forth in this ruling no later than 5:00 p.m., on November 9, 2001.

Dated November 1, 2001, at San Francisco, California.

/s/ DOROTHY J. DUDA

Dorothy J. Duda
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Requiring That Parties Meet And Confer And Scheduling Prehearing Conference on all parties of record in this proceeding or their attorneys of record.

Dated November 1, 2001, at San Francisco, California.

/s/ KRIS KELLER

Kris Keller

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TTY# 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.